

**From:** Dan Ryder  
**To:** Microsoft ATR  
**Date:** 11/22/01 3:20pm  
**Subject:** Microsoft Settlement

Dear Sirs:

I am writing to express my concern about the recent proposed settlement ("Proposed Final Judgment") of the antitrust case against Microsoft. I believe that time pressure, and perhaps economic concerns related to the events of Sept. 11, have resulted in the antitrust division of your department making a hasty deal that will ultimately harm consumers. I am seriously concerned that we are all witnessing a repeat of the inadequate consent decree of July 1994.

I applaud the state attorneys general who refused to sign this settlement because it delivers no more than a slap on the wrist to a company that has repeatedly engaged in egregious illegal anti-competitive practices, as found by Judge Thomas Penfield Jackson, and upheld by the court of appeal. The proposed settlement states that the code that constitutes Windows "shall be determined by Microsoft in its sole discretion." In conjunction with the provision that Microsoft need not reveal communication protocols for non-trademarked middleware that is not distributed separately from Windows, this gives the company a large loophole through which it may continue its practice of abusing its (illegally maintained) monopoly by "extending, enhancing, and exterminating" competing software, to the detriment of consumers. There are other large loopholes as well; for instance, Microsoft need not reveal communications protocols to open-source developers or anyone else the company deems not to have a "viable business". Windows XP, with its bundled technologies like Passport, will simply give the company more power to extend its monopoly into other areas. Frankly, I am stunned and amazed that it seems you intend to allow this.

Further, the enforcement measures according to the proposed settlement are inadequate because the three member Technical Committee is not held sufficiently accountable, and there is no easy way to impose penalties for clear infractions, other than launching a further lawsuit.

Not only that, but the proposed settlement does not "deny the defendant the fruits of its statutory violation," which is what a remedies decree ought to do according to the Supreme Court. Again, your department seems to have failed in its duty.

I do not believe that entry of the revised proposed Final Judgment will serve the public interest, and I urge you to withdraw your consent.

Yours truly,

Dan Ryder

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